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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/067,606	02/05/2002	James Mantyla	669-78	5890
7590	02/12/2004		EXAMINER	
Ludomir A. Budzyn HOFFMANN & BARON, LLP 6900 Jericho Turnpike Syosset, NY 11791			KOKABI, AZADEH	
		ART UNIT	PAPER NUMBER	
		3743		
DATE MAILED: 02/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/067,606	MANTYLA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Azy Kokabi	3743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### **Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 22 January 2004.

2a)  This action is FINAL.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) 17 and 18 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-16, 19 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## **DETAILED ACTION**

### ***Minor Claim Suggestions By Examiner***

1. The body of the claims of the present invention is understood by the Examiner, however the following changes are recommended to improve clarity. The claims have been examined on the merits including the suggested changes below.

Claim 2 recites the limitation "said first and second elements" in line 3. There is insufficient antecedent basis for this limitation in the claim. It is suggested that "said first and second elements" be changed to --said first and second tubing elements--.

Furthermore, claim 2 recites the limitation "said range of angles" in line 2. There is insufficient antecedent basis for this limitation in the claim. It is suggested that "said range of angles" be changed to --a range of angle--.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 7, 8, 13, 15, 16, are rejected under 35 U.S.C. 102(b) as being anticipated by Paine (U.S. Patent No. 1,450,606).

Paine discloses a plumbing drainage system having a first tubing element (#3) with an attachment bell at one end (unnumbered, see figure 1) and a first coupler portion at the other end (see figure 1, #2). Paine further discloses a second tubing element (#6), inherently having an attachment bell at one end and a second coupler portion (#12) at the other end (see figure 1).

The first and second coupler portions are sized and shaped to be coupled together. The first tubing element is generally u-shaped and shaped to trap water (see figure 1). Paine further discloses a seal (#14) sized and shaped to fit between the first and second coupler portion (see figure 1 and 2 and at least lines 84-90). The seal is made of compressible material, which forms a tight seal. Figure 3 also shows a connector (#8) releasably coupled to the first and second coupler portions. The connector can be tightened onto the coupler portion and can act on the seal to form a leak resistant joint (see lines 84-90).

Paine further discloses that the seal is beveled or wedge shaped having an inner and outer seal surface and a bottom thrust face. The first and second coupler portion define a wedge or beveled shaped gap wherein the seal is received into. Paine further discloses a threaded connector, which couples to the threaded surface of the second coupler portion. Figure 1 shows that the connector (#8) has a rim (see bottom of the connector) having a thrust surface for thrusting the seal into the wedge-shaped gap.

The connector or socket ring (#8) of the Paine device acts like an angel stop for limiting the range of angel in which the two tubing elements may move. The socket ring prevents the joint from articulating or moving. It creates an "uphill rise to a downstream element" and promotes drainage.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 9-12, 14, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paine.

As previously, discussed in paragraph 3 above, Paine further discloses all the limitations as set forth, however Paine fails to specifically disclose the shape of the seal components and fails to disclose the seal material.

However, It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided for a gasket made of polyethylene, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416 (CCPA 1960). The Paine gasket is compressible. Moreover, it would have been obvious to mold the gasket from a suitable plastic material, such as low-density polyethylene, as a matter of design choice depending on the desired compressibility and joint tightness.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided for the shape and surface of the outer and inner seal and the bottom thrust face, since it has been held that a change in the shape of the element

involves only routine skill in the art (see MPEP 2144.04). Moreover, it would have been obvious to have provided for a specific shape in order to accommodate the shape of the couplers.

Furthermore, Paine fails to disclose an integral angle stop.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided for an integral angle stop, since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art (see MPEP 2144.04).

7. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paine in view of Taylor (U.S. Patent NO. 1,475,090).

As previously, discussed in paragraph 3 above, Paine further discloses all the limitations as set forth, however Paine fails to disclose a bulb and socket coupler portions.

Taylor discloses a flexible pipe joint having a first and second coupler portion (see #2 and #b in figure 2). One end of the coupler portion is a bulb and the other end is a socket. Such a configuration allows a tight fit between the two coupler portions. It is well known that many pipe joints are made from a socket and bulb configuration (i.e. see U.S. Patent 739,154 to Crawford and 1,564,175 to Hoehn). Furthermore, the Taylor device is sized and shaped to fit a gasket in between the coupler portion (#14).

In view of Taylor, it would have been obvious to have provided a bulb and socket type coupler portion in the Paine device in order to allow for a better and tighter fit between the two coupler portions.

Regarding claim 6, it appears from figure 2 that the spherical section subtends an arc of between 30 to 60 degrees in a vertical plane. On the other hand, it would have been obvious to

increase or decrease the surface area of the ball portion to increase or decrease the range of angles over which the joint may be articulated.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1-16 and 19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azy Kokabi whose telephone number is (703) 306-4154. The examiner can normally be reached on Monday- Friday, 6:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AK

Henry Bennett  
Supervisory Patent Examiner  
Group 3700